

MEMORANDUM

June 24, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: LAUREN M. BLACK
Deputy County Counsel
General Litigation Division

RE: Metropolitan News Company v. Steve Cooley
Los Angeles Superior Court Case No. BC286990

DATE OF
INCIDENT: May 2, 2002

AUTHORITY
REQUESTED: \$40,000

COUNTY
DEPARTMENT: District Attorney

CLAIMS BOARD ACTION:



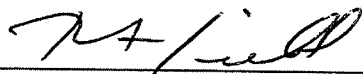
Approve



Disapprove



Recommend to Board of
Supervisors for Approval



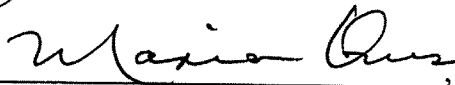
ROCKY A. ARMFIELD

, Chief Administrative Office



JOHN F. KRATTLI

, County Counsel



MARIA M. OMS

, Auditor-Controller

on July 18, 2005

SUMMARY

This is a recommendation to settle for \$40,000, a lawsuit filed by the Metropolitan News Company ("MNC"), publisher of the Metropolitan newspaper, and its owner, Roger Grace, which alleges that the District Attorney's Office served an invalid search warrant on MNC and libeled MNC and Roger Grace when the District Attorney's Office issued inaccurate public statements regarding the incident.

LEGAL PRINCIPLES

The Fourth Amendment of the United States Constitution provides that no warrant may issue except those particularly describing the place to be searched, and the person or things to be seized. Further, the federal Privacy Protection Act, 42 U.S.C. section 2000aa, subds. (a) and (b), prohibits federal and state officers from searching for and seizing documentary materials possessed by a person in connection with a purpose to disseminate information to the public. Under the Privacy Protection Act, law enforcement agencies are required to rely on the cooperation of the press or on obtaining a subpoena duces tecum. The prevailing party in a lawsuit brought under the Federal Civil Rights Act may be awarded attorney's fees.

SUMMARY OF FACTS

This lawsuit arose out of an investigation by the Office of the District Attorney into allegations of criminal activity by public officials in the City of South Gate. During the investigation, District Attorney investigators had probable cause to believe that MNC had business records which would substantiate certain allegations. The investigators obtained a search warrant from a Superior Court judge and presented the warrant at MNC on May 2, 2002. The search warrant served at MNC expressly permitted a search of all offices within MNC, including those occupied by the editorial staff, and included access to any receptacle located inside or outside of the offices (including purses, wallets, automobiles, etc.). Initially, MNC representatives were unwilling to cooperate, but, after approximately three hours, MNC voluntarily produced the requested information.

In response to public criticism of the action, the Office of the District Attorney issued a press release regarding the incident. The District Attorney also authored a letter to the Los Angeles Times, a portion of which was published the week following the incident.

DAMAGES

MNC contends that it lost business when its premises were evacuated pending execution of the search warrant. MNC further alleges that it should be compensated for the salaries it was required to pay its employees for the period of time that the employees were evacuated from the office.

Should this matter proceed to trial, we estimate the potential for damages could be as follows:

Lost business	\$ 10,000
Lost wages	\$ 3,000
Attorney's Fees	<u>\$ 68,000</u>
Total	\$ 81,000

The settlement calls for the County to pay \$40,000 for all claims, damages, costs and attorney's fees.

STATUS OF CASE

The libel causes of action were dismissed by the court. Plaintiffs sought writ review of the dismissal, which was denied. The plaintiffs have indicated that, should this case go forward, they will appeal the court's ruling.

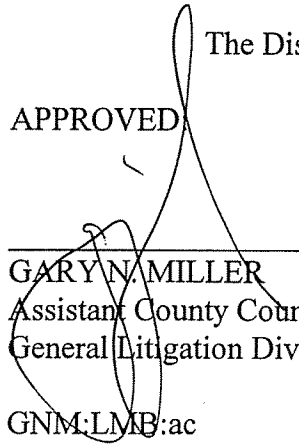
The trial court proceedings have been suspended pending consideration of this recommended settlement. The total expenses incurred in the defense of this matter to date are attorney's fees of \$56,373 and \$365 in costs.

EVALUATION

This is a case of disputed liability. The District Attorney maintains that the actions of his staff were reasonable under the circumstances. However, it is possible that a judge would find the scope of the search warrant too broad in light of the affidavit filed in its support. Further, plaintiffs have filed three applications for writ review during this litigation, and have indicated that they will appeal the court's ruling dismissing the libel causes of action and any other adverse rulings in this action. The cost of continuing this litigation will be substantial. Therefore, we believe that the best interests of the County of Los Angeles would be served by settling this case for \$40,000.

The District Attorney joins in this settlement recommendation.

APPROVED



GARY N. MILLER
Assistant County Counsel
General Litigation Division

GNM:LMB:ac